

AMENDED IN SENATE JUNE 20, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2184

Introduced by Assembly Member Hall

February 23, 2012

An act to ~~amend Section 25502 of~~ *add and repeal Section 25502.2* of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 2184, as amended, Hall. Alcoholic beverages: tied-house restrictions.

Existing law, known as tied-house restrictions, prohibits specified licensees from furnishing, giving, or lending money or other thing of value, directly or indirectly, to a person engaged in operating, owning, or maintaining an off-sale licensed premises.

This bill would ~~provide that the autographing of a bottle or bottles of distilled spirits at a promotional event conducted at an off-sale licensed retail premises by a person who holds an ownership interest in that distilled spirits brand is not a thing of value~~ *authorize, until January 1, 2015, the appearance of a person employed or engaged by an authorized licensee at a promotional event held at the premises of an off-sale retail licensee for the purposes of providing autographs, subject to specified conditions.*

The Alcoholic Beverage Control Act provides that a violation of any of its provisions for which another penalty or punishment is not specifically provided is a misdemeanor. This bill would expand existing crimes by imposing additional requirements on a licensee under the act, thus, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25502.2 is added to the Business and
2 Professions Code, to read:
3 25502.2. (a) A person employed or engaged by an authorized
4 licensee may appear at a promotional event at the premises of an
5 off-sale retail licensee for the purposes of providing autographs
6 to consumers at the promotional event only under the following
7 conditions:
8 (1) A purchase from the off-sale retail licensee is not required.
9 (2) A fee is not charged to attend the promotional event.
10 (3) Autographing may only be provided on consumer advertising
11 specialties given by the authorized licensee to a consumer or on
12 any item provided by the consumer.
13 (4) The promotional event does not exceed 4 hours in duration.
14 (5) There are no more than two promotional events per calendar
15 year involving the same authorized licensee at a single premises
16 of an off-sale retail licensee.
17 (6) The off-sale retail licensee may advertise the promotional
18 event to be held at its licensed premises.
19 (7) An authorized licensee may advertise in advance of the
20 promotional event only in publications of the authorized licensee,
21 subject to the following conditions:
22 (A) The advertising only lists the name and address of the
23 off-sale retail licensee, the name of the alcoholic beverage product
24 being featured at the promotional event, and the time, date, and
25 location of the off-sale retail licensee location where the
26 promotional event is being held.
27 (B) The listing of the off-sale retail licensee's name and address
28 is the only reference to the off-sale retail licensee in the
29 advertisement and is relatively inconspicuous in relation to the

1 advertisement as a whole, and the advertisement does not contain
2 any pictures or illustrations of the off-sale retail licensee's
3 premises or laudatory references to the off-sale retail licensee.

4 (8) A wholesaler does not directly or indirectly underwrite,
5 share in, or contribute to any costs related to the promotional
6 event, other than for a promotional event for which the wholesaler
7 employs or engages the person providing autographs to consumers
8 at the promotional event.

9 (9) The authorized licensee notifies the department in writing
10 of the promotional event at least 30 days in advance of the
11 promotional event.

12 (10) The authorized licensee maintains records necessary to
13 establish its compliance with this section.

14 (b) For purposes of this section, "authorized licensee" means
15 a manufacturer, winegrower, manufacturer's agent, California
16 winegrower's agent, rectifier, importer, brandy manufacturer,
17 brandy importer, or wholesaler.

18 (c) This section shall remain in effect only until January 1, 2016.

19 SEC. 2. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the penalty
24 for a crime or infraction, within the meaning of Section 17556 of
25 the Government Code, or changes the definition of a crime within
26 the meaning of Section 6 of Article XIII B of the California
27 Constitution.

28 SECTION 1. ~~Section 25502 of the Business and Professions~~
29 ~~Code is amended to read:~~

30 25502. ~~(a) No manufacturer, winegrower, manufacturer's~~
31 ~~agent, California winegrower's agent, rectifier, distiller, bottler,~~
32 ~~importer, or wholesaler, or any officer, director, or agent of any~~
33 ~~such person, shall, except as authorized by this division:~~

34 ~~(1) Hold the ownership, directly or indirectly, of any interest in~~
35 ~~an off-sale license.~~

36 ~~(2) (A) Furnish, give, or lend any money or other thing of value,~~
37 ~~directly or indirectly, to, or guarantee the repayment of any loan~~
38 ~~or the fulfillment of any financial obligation of, any person engaged~~
39 ~~in operating, owning, or maintaining any off-sale licensed premises.~~

1 ~~(B) For purposes of this paragraph, the autographing of a bottle~~
2 ~~or bottles of distilled spirits at a promotional event conducted at~~
3 ~~an off-sale licensed retail premises by a person who holds an~~
4 ~~ownership in that distilled spirits brand shall not be a thing of~~
5 ~~value.~~

6 ~~(3) Own or control any interest, directly or indirectly, by stock~~
7 ~~ownership, interlocking directors, or trusteeship, in the business;~~
8 ~~furniture, fixtures, refrigeration equipment, signs, except signs for~~
9 ~~interior use mentioned in subdivision (g) of Section 25503, or lease~~
10 ~~in premises licensed with an off-sale license.~~

11 ~~(4) Own or control any interest, directly or indirectly, by stock~~
12 ~~ownership, interlocking directors, trusteeship, or mortgage of the~~
13 ~~realty upon which an off-sale licensed premises is maintained.~~

14 ~~(b) Any wholesaler in counties not to exceed 15,000 population~~
15 ~~who holds both a beer and wine wholesaler's license and an off-sale~~
16 ~~general license and who held such licenses prior to September 19,~~
17 ~~1947, may continue to hold such licenses but may not transfer the~~
18 ~~beer and wine wholesaler's license to another individual,~~
19 ~~individuals, partnership, corporation or other legal entity. Where~~
20 ~~the off-sale general license is transferred to an individual,~~
21 ~~individuals, partnership, corporation or other legal entity, the~~
22 ~~transfer shall be a person-to-person transfer only.~~

23 ~~(c) Nothing in this section prohibits any holder of a distilled~~
24 ~~spirits manufacturer's, manufacturer's agent's, California~~
25 ~~winegrower's agent, rectifier's, or wholesaler's license, or any~~
26 ~~officer, employee, or representative of any such licensee, from~~
27 ~~acting as a trustee for any off-sale general licensee in any~~
28 ~~bankruptcy or other proceedings for the benefit of the creditors of~~
29 ~~the off-sale general licensee.~~

30 ~~(d) Nothing in this section shall alter, change, or otherwise~~
31 ~~affect, retroactively or prospectively, any of the rights or privileges~~
32 ~~granted to a winegrower or brandy manufacturer by Section 23362,~~
33 ~~or by any other provision of this division.~~

34 ~~(e) This section does not apply to an employee of a licensee~~
35 ~~referred to in subdivision (a) who is a nonadministrative and~~
36 ~~nonsupervisory employee.~~